



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2009-0024]

Variance Regulations; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to obtain OMB approval for the information collection requirements contained in the Standards on Variance and Other Relief; Variances and Other Relief; and Limitation, Variations, Tolerances or Exemptions. These statutory and regulatory provisions specify the requirements for submitting applications to OSHA for temporary, experimental, permanent, and national defense variances.

DATES: Comments must be submitted (postmarked, sent or received) by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All

submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this *Federal Register* notice (OSHA-2009-0024). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the “Public Participation” heading in the section of this notice titled

“SUPPLEMENTARY INFORMATION.”

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the correct format, reporting burden (time and costs) is minimal, collection instruments are clearly understandable, and OSHA's estimate of the information collection burden is correct. The OSH Act (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information

regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Sections 6(b)(6)(A), 6(b)(6)(B), 6(b)(6)(C), 6(d), and 16 of the OSH Act, and 29 CFR 1905.10, 1905.11, and 1905.12, specify the procedures that employers must follow to apply for a variance from the requirements of an OSHA standard. OSHA uses the information collected under these procedures to: (1) evaluate the employer's claim that the alternative means of compliance would provide affected employees with the requisite level of health and safety protection; (2) assess the technical feasibility of the alternative means of compliance; (3) determine that the employer properly notified affected employees of the variance application and their right to a hearing; and (4) verify that the application contains the administrative information required by the applicable variance regulation.

Currently, no specific forms are available for preparing variance applications and other documents that may accompany variance applications. OSHA is developing new forms to assist employers in preparing variance applications that comply with the information collection requirements contained in the OSH Act and variance regulations.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for proper performance of the agency's functions, including whether the information is useful;

- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB approval of the information collection (paperwork) requirements contained in Sections 6(b)(6)(A), 6(b)(6)(B), 6(b)(6)(C), 6(d), and 16 of the Occupational Safety and Health Act of 1970, and 29 CFR 1905.10, 1905.11, and 1905.12. These statutory and regulatory provisions specify the requirements for submitting applications to OSHA for temporary, experimental, permanent, and national defense variances.

OSHA is also requesting OMB approval to develop and use variance application forms for the four types of variances specified by the OSH Act and variance regulations. The four types of variances are: temporary variances (Section 6(b)(6)(A) of the Act; 29 U.S.C. 655; 29 CFR 1905.10); experimental variances (Section 6(b)(6)(C) of the Act; 29 U.S.C. 655); permanent variances (Section 6(d) of the Act; 29 U.S.C. 655; 29 CFR 1905.11); and national defense variances (Section 16 of the Act; 29 U.S.C. 665; 29 CFR 1905.12). The variance regulations specify the information that employers must provide when requesting one of these variances. The variance application forms would organize and clarify the information collection requirements for each type of variance by specifying the requirements in comprehensible language, and providing explanatory material. Employers applying for a variance could download and

complete the applicable form from OSHA's website. The forms would expedite the application process for employers, and ensure that the information on the application is complete and accurate.

There are no adjustments or program changes associated with this ICR. The agency is proposing to retain the previous burden hour estimate of 366 hours. The agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to approve these information collection requirements and variance application forms.

| | |
|--|--|
| <i>Type of Review:</i> | Extension of a currently approved collection. |
| <i>Title:</i> | Variance Regulations (29 CFR 1905.10, 1905.11, and 1905.12). |
| <i>OMB Control Number:</i> | 1218-0265. |
| <i>Affected Public:</i> | Businesses or other for-profits and not-for-profit institutions. |
| <i>Frequency of Responses:</i> | On occasion. |
| <i>Number of Respondents:</i> | 48. |
| <i>Total Responses:</i> | 48. |
| <i>Average Time per Response:</i> | Varies. |
| <i>Estimated Total Burden Hours:</i> | 366. |
| <i>Estimated Cost (Operation and Maintenance):</i> | \$0. |

IV. Public Participation - Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2009-0024). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled “ADDRESSES”). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website’s “User Tips” link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on October 28, 2021.

James S. Frederick,
Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021-24055 Filed: 11/9/2021 8:45 am; Publication Date: 11/10/2021]